
REQUEST FOR PROPOSALS

Issued by:

The Commission on Federalism



FEDERALISM CURRICULUM

RFP No. COF 2014-01

I. RFP CONTACT

The Commission on Federalism is the issuer of this RFP and any subsequent addenda to this RFP. Inquiries regarding this RFP should be directed, in writing, to:

Robert H. Rees
Associate General Counsel
Office of Legislative Research and General Counsel
Email: rrees@le.utah.gov

II. DEFINITIONS

As used in this RFP:

1. "COMMISSION" means the Commission on Federalism, created by Utah Code Section 63C-4a-302.
2. "CONTRACTOR" means the person whose proposal submitted in response to this RFP is selected for an award of a contract to develop, MAINTAIN, and UPDATE the FEDERALISM CURRICULUM and who enters into a contract with the COMMISSION to develop, MAINTAIN, and UPDATE the FEDERALISM CURRICULUM.
3. "FEDERALISM CURRICULUM" means a set of educational materials that meet the criteria stated in Section IV of this RFP.
4. "LEGISLATURE" means:
 - a. the Utah Legislature, including the Utah House of Representatives and the Utah Senate;
 - b. the members, staff, and employees of the Utah State Legislature, the Utah House of Representatives, or the Utah Senate; and
 - c. staff offices of the Utah Legislature, the Utah House of Representatives, or the Utah Senate, and employees of those staff offices.
5. "MAINTAIN," when used in relation to the FEDERALISM CURRICULUM, means to oversee and ensure the proper online functioning of the FEDERALISM CURRICULUM.
6. "MDT" means Mountain Daylight Time.
7. "MST" means Mountain Standard Time.
8. "RESPONDER" means a person who submits a proposal in response to this RFP and, in the case of the person whose proposal is selected for an award of a contract pursuant to this RFP, includes the CONTRACTOR.

9. "RFP" means this request for proposals, issued by the COMMISSION, for FEDERALISM CURRICULUM, No. COF-2014-01.
10. "UPDATE," when used in relation to the FEDERALISM CURRICULUM, means to monitor case law and other developments in the area of federalism and to adjust or modify the FEDERALISM CURRICULUM as necessary to reflect any significant new case or development.

III. REQUEST FOR PROPOSALS INFORMATION

1. The purpose of this RFP is to enter into a contract with a qualified individual, group of individuals, or firm to develop a FEDERALISM CURRICULUM and to MAINTAIN and UPDATE the FEDERALISM CURRICULUM for a period of at least one year after the FEDERALISM CURRICULUM has been developed. A RESPONDER may propose to MAINTAIN and UPDATE the FEDERALISM CURRICULUM beyond the one-year period, subject to a maximum total contract period of five years.
2. This RFP is designed to provide basic information sufficient to solicit proposals from qualified individuals, groups of individuals, or firms, but, except to the extent expressly provided otherwise, is not intended to limit a proposal's content or exclude any relevant, important, or essential information.

IV. FEDERALISM CURRICULUM

1. The curriculum that is the subject of this RFP is curriculum for a seminar on the principles of federalism. The curriculum is being developed pursuant to the COMMISSION's statutory charge under Utah Code Section 63C-4a-303(8) and will be the curriculum of the seminar that, pursuant to Utah Code Section 63C-4a-306, designees of political subdivisions and certain state agencies will be required to attend in person or online.
2. The curriculum shall:
 - a. be made available online to the general public at no charge;
 - b. be accessible online over the Internet but also be in a format that will allow the curriculum to be taught at a seminar in which individuals can participate in person;
 - c. include instruction on:
 - i. fundamental principles of federalism;
 - ii. the sovereignty, supremacy, and jurisdiction of the individual states, including their police powers;
 - iii. the history and practical implementation of the Tenth Amendment to the United States Constitution;
 - iv. the relationship between the state and federal governments;

- v. methods of evaluating a federal law in the context of the principles of federalism;
 - vi. how and when challenges should be made to a federal law or regulation on the basis of federalism;
 - vii. the separate and independent powers of the state that serve as a check on the federal government; and
 - viii. First Amendment rights and freedoms;
- d. be an accurate and objective reflection of the law on the subject of federalism, resulting from an even-handed, balanced, non-ideological survey of the state of the law on federalism, paying particular attention to source documents and writings reflecting the original intent relating to the principle of federalism, the sovereignty of the states, and their role as a counterbalance to the authority of the federal government;
 - e. be designed to enable attorneys who complete the seminar to qualify to receive continuing legal education credit; and
 - f. be designed to be useful and informative to attorneys, but also understandable by the general public.
3. The curriculum may include video presentations, case studies, and interactive features to enhance and facilitate learning and to improve understanding of federalism principles.
 4. While addressing the theoretical underpinnings of federalism, a primary focus of the curriculum should be the practical application of federalism principles. The curriculum should elucidate the full scope of the sovereign rights, powers, and authority of the state and its subdivisions to act independently and affirmatively for the health, safety, and welfare of their citizens, while also articulating any limitations on those rights, powers, and authority.
 5. The curriculum may include a test component to assess the effectiveness of the curriculum in teaching the principles of federalism contained in the curriculum. Any testing component is to test for comprehension of the curriculum rather than for analytical correctness.
 6. The curriculum may include a voluntary demographic questionnaire for participants to complete.

V. ANTICIPATED CONTRACT TERMS

1. The contract will be awarded for the period of the time to develop the FEDERALISM CURRICULUM plus at least one year after the FEDERALISM CURRICULUM is developed.
2. The CONTRACTOR will be required to submit a draft or proof of the FEDERALISM CURRICULUM to the COMMISSION for the COMMISSION's review and approval before final completion of the FEDERALISM CURRICULUM. The CONTRACTOR will be

required to complete the development of the FEDERALISM CURRICULUM and to have it accessible online and ready for presentation in a live seminar setting no later than 150 days after execution of the contract awarded pursuant to this RFP.

3. The COMMISSION shall retain ownership rights to the FEDERALISM CURRICULUM and any information gathered from participants responding to a demographic questionnaire or otherwise providing information while accessing the FEDERALISM CURRICULUM. Those ownership rights shall be exclusive, except that the COMMISSION may, in its sole discretion, allow the CONTRACTOR to retain limited rights to the FEDERALISM CURRICULUM or other information, subject to the payment of royalties or some other arrangement negotiated between the COMMISSION and the CONTRACTOR.

4. The CONTRACTOR shall ensure that the COMMISSION receives, promptly and on an ongoing basis, all information gathered from participants responding to a demographic questionnaire or otherwise providing information while accessing the FEDERALISM CURRICULUM.

5. For at least one year following the development of the FEDERALISM CURRICULUM, the CONTRACTOR shall MAINTAIN the FEDERALISM CURRICULUM and shall UPDATE the FEDERALISM CURRICULUM as and if significant legal developments in the area of federalism occur.

6. The COMMISSION has the option to terminate the contract at any time if:

- a. the FEDERALISM CURRICULUM is no longer needed, or the need to MAINTAIN or UPDATE the FEDERALISM CURRICULUM no longer exists; or
- b. the COMMISSION is not satisfied with the CONTRACTOR, the FEDERALISM CURRICULUM, or the manner in which the CONTRACTOR MAINTAINS or UPDATES the FEDERALISM CURRICULUM.

7. CONTRACTOR shall provide the FEDERALISM CURRICULUM and shall MAINTAIN and UPDATE the FEDERALISM CURRICULUM in an expeditious and professional manner.

8. In developing the FEDERALISM CURRICULUM, the CONTRACTOR should review and be familiar with the standards articulated in Utah Code Section 63C-4a-304 that govern the COMMISSION's evaluation of federal laws and whether they are consistent with principles of federalism.

VI. TIMELINE OF RFP PROCESS

The following timeline, subject to change by addendum, will be followed with respect to this RFP:

1. RFP opening date: October 20, 2014.
2. Deadline for submitting questions: 12:00 noon MST on Friday, November 7, 2014.
3. Final date for addenda to RFP (related to specifications and answering questions submitted before the deadline described in the preceding numbered paragraph, Section VI. 2 of this RFP): November 21, 2014.
4. RFP response submission deadline: 12:00 noon MST on Friday, December 5, 2014.
5. Opening of Proposals: December 5, 2014, at approximately 12:10 p.m. MST at the Office of Legislative Research and General Counsel, Utah State Capitol Complex, House Building, Suite W210, Salt Lake City, Utah.
6. Awarding of contract: December 19, 2014.

VII. REQUEST FOR PROPOSALS GUIDELINES

1. SUBMISSION TIME, PLACE, AND MANNER

Proposals submitted in response to this RFP should NOT be submitted via BidSync.

An electronic copy in PDF format must be received by the RFP contact, Robert H. Rees, on or before 12:00 noon MST on Friday, December 5, 2014. There are two ways to submit an electronic copy. A RESPONDER may submit an electronic copy by email to rees@le.utah.gov. The email transmission, including attachments, is limited to 25MB per email, so if a RESPONDER sends anything larger, the RESPONDER will need to break the email into parts and send them separately. As an alternative to emailing an electronic copy, a RESPONDER may burn an electronic copy to a disk and deliver the disk to the following address:

Attention: Robert H. Rees
Associate General Counsel
Office of Legislative Research and General Counsel
Utah State Capitol Complex, W210 House Building
PO Box 145210
Salt Lake City, Utah 84114-5210

Proposals received after 12:00 noon MST on December 5, 2014 will not be considered

2. RESPONDER INFORMATION

The first page of the proposal shall include the following information, in the following format:

a. Title: “RFP for FEDERALISM CURRICULUM, NO. COF 2014-01”

b. RESPONDER Summary Information:

Name:

RFP Contact Person:

Address:

Telephone:

Fax:

Email:

Federal Tax ID Number:

3. EXECUTIVE SUMMARY

The second portion of the proposal shall contain a one or two page executive summary that briefly describes the RESPONDER’s proposal. This summary shall serve to highlight the major features of the proposal. The reader should be able to determine the essence of the proposal by reading the executive summary.

The executive summary shall also describe any deviations or exceptions from the requirements, terms, and conditions of this RFP. In the absence of such a written description, the response shall be interpreted to agree to the requirements, terms, and conditions of this RFP and the RESPONDER shall be held liable for any deviations from the RFP. Deviations and exceptions claimed by a RESPONDER may result in rejection of a response on the grounds that the response is not responsive to the RFP.

4. DETAILED DESCRIPTION

The third portion of the proposal constitutes the main portion of the response and shall include the following:

a. A complete narrative of the RESPONDER’s assessment of the work to be performed, the RESPONDER’s ability and approach, and the resources necessary to fulfill the requirements. This narrative shall demonstrate the RESPONDER’s understanding of the overall performance expectations and clearly indicate all options and alternatives proposed.

- b. A description of the qualifications, including experience, education, training, and knowledge of each individual that the RESPONDER will designate to develop, MAINTAIN, and UPDATE the FEDERALISM CURRICULUM described in this RFP.
- c. A list of references (including a contact person and that person's contact information and title) of persons or entities for which the RESPONDER has provided services similar to the service sought by this RFP to develop, MAINTAIN, and UPDATE a FEDERALISM CURRICULUM, who can render an opinion regarding the ability of the RESPONDER to develop, MAINTAIN, and UPDATE a FEDERALISM CURRICULUM.
- d. A certification indicating that neither the RESPONDER nor any of its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction or contract by any governmental entity. If the RESPONDER cannot certify this statement, the RESPONDER shall attach a written explanation indicating why the RESPONDER cannot certify this statement.

5. COST

The COMMISSION has a total of \$30,000 appropriated and available to pay the cost to develop a FEDERALISM CURRICULUM and to MAINTAIN and UPDATE the FEDERALISM CURRICULUM. That sum is the maximum amount that will be paid to a CONTRACTOR under a contract awarded pursuant to this RFP. It is possible that an additional sum will be appropriated in the future to MAINTAIN or UPDATE the FEDERALISM CURRICULUM in the future or for possible upgrade of the FEDERALISM CURRICULUM, but that is purely speculative at this time and should not be relied upon in submitting a proposal. If a future appropriation occurs, the COMMISSION reserves the right, in its sole discretion, to expand the scope and term of the contract that is awarded pursuant to this RFP for the CONTRACTOR to further MAINTAIN and UPDATE the FEDERALISM CURRICULUM for an additional length of time, not to exceed five years from the date of the contract, or for possible upgrade of the FEDERALISM CURRICULUM. The COMMISSION makes no representation, guarantee, or assurance that any future appropriation will occur or that any expansion of the scope and term of the contract will occur.

6. RFP COMPLIANCE

The COMMISSION reserves the right to:

- a. reject a proposal on the grounds that it is not responsible (as defined in Utah Code Section 63G-6a-103);

- b. reject a proposal on the grounds that it is not responsive (as defined in Utah Code Section 63G-6a-103);
- c. reject a proposal that does not strictly comply with the requirements of this RFP and the required submission format; and
- d. waive minor informalities or minor technical errors in a proposal.

7. PROPOSALS ARE BINDING

All proposals are required to be signed by a person in authority to bind the RESPONDER to the response, the response cost, and the terms and conditions of the proposals.

Proposals may not be withdrawn for a period of 60 days after the RFP due date. By submitting a proposal, the RESPONDER certifies that all information provided by the RESPONDER is true, complete, and accurate, that the RESPONDER is willing and able to develop, MAINTAIN, and UPDATE a FEDERALISM CURRICULUM in the manner described in this RFP, that the costs quoted are correct, and that the costs quoted include all charges that will be required to develop, MAINTAIN, and UPDATE the FEDERALISM CURRICULUM as described in this RFP.

8. RESPONDER'S RESPONSIBILITY

The successful RESPONDER is solely responsible for fulfillment of the responsibilities under the terms and conditions of the contract resulting from this RFP.

VIII. OTHER REQUIREMENTS

1. The RESPONDER's name must appear on each page of the response. Erasures, cross-outs, alterations, corrections, or other changes must be initialed by the person who signs the Response. The response must contain evidence that the person who signs the proposal is authorized to bind the RESPONDER in relation to the response.
2. By submitting a proposal in response to this RFP, RESPONDER is acknowledging that the requirements, scope of work, and evaluation process described in this RFP are fair, equitable, not unduly restrictive, understood, and agreed to. Any exceptions to the content of the RFP must be protested in writing before the RFP response submission deadline.

IX. EVALUATION AND CONTRACT

1. EVALUATION CRITERIA

- a. Each response to this RFP will be evaluated based on the factors described in Section IX. 2. b. of this RFP.
- b. A RESPONDER from Utah will not be given a preference over a RESPONDER from

outside of Utah, unless the RESPONDER from outside of Utah is from a state that gives a procurement preference to in-state providers.

2. EVALUATION PROCESS

a. Phase 1:

An evaluation committee will review all proposals that are timely received. Proposals that are not responsible, responsive, or do not strictly comply with the requirements of this RFP and the required submission format will be eliminated from further consideration.

b. Phase 2:

The evaluation committee will evaluate proposals that are not eliminated in Phase 1 in accordance with the following criteria:

Points	Criteria
65	Demonstrated experience and expertise in developing, maintaining, and updating a curriculum similar to or the equivalent of a FEDERALISM CURRICULUM, as explained in this RFP, including the quality of the curriculum and of the RESPONDER's history, reputation, and record of developing or providing and maintaining any similar or equivalent curriculum, or the quality of any equivalent experience
25	Demonstrating an understanding of, or an ability to develop an understanding of, the principles of federalism that makes the RESPONDER well-suited to develop a FEDERALISM CURRICULUM; demonstrating the ability and capability necessary to produce the FEDERALISM CURRICULUM that the COMMISSION seeks through this RFP; and how well the proposal meets the requirements and intent of the RFP
5	The ability and willingness to MAINTAIN and UPDATE the FEDERALISM CURRICULUM for a period of time longer than one year following development of the FEDERALISM CURRICULUM
5	Cost below the maximum amount available to the COMMISSION, as explained in Section VII, 5 of this RFP

c. The COMMISSION may conduct discussions with RESPONDERS who submit proposals determined to be reasonably susceptible of being selected for award, followed

by an opportunity to make best and final offers, but proposals may be accepted without discussions.

3. UTAH PROCUREMENT CODE

All proposals will be evaluated in accordance with the requirements of the Utah Procurement Code.

4. CONTRACT

- a. The contract will be tentatively awarded, pending successful contract negotiations, to the RESPONDER whose proposal is the most advantageous to the state, taking into consideration evaluation factors described in this RFP.
- b. The contract shall include the standard terms and conditions included in Attachment A.
- c. The COMMISSION reserves the right to refuse to negotiate on exceptions if the COMMISSION determines that the exceptions are excessive or not in the interest of the state, or that negotiations could result in significant costs to the state or take a significant period of time.
- d. The COMMISSION reserves the right to review the contract on a regular basis in relation to performance and cost and may negotiate terms relating to cost and service during the term of the contract.
- e. All pricing shall be guaranteed for the entire term of the contract, including any extensions or amendments.

X. QUESTIONS

Questions, requests for changes to this RFP, and requests for clarification must be submitted by email to rrees@le.utah.gov on or before noon (MDT) on September 26, 2014. Responses to substantive questions, responses to requests for clarification, and responses to requests for changes will be provided in the form of an addendum to this RFP.

XI. ADDENDA

1. All addenda to this RFP, including answers to questions provided by addendum, will be posted on the Utah Legislature's website at:

<http://le.utah.gov>

2. Addenda and notifications of addenda are not required to be provided in any other manner. All RESPONDERS, potential RESPONDERS, and other interested persons are required to check the website on a regular basis in order to receive notice of, or a copy of, any addendum.
3. The COMMISSION may attempt, but is not required, to provide email notification of an addendum to any person who sends a request to receive notification to:

rrees@le.utah.gov

XII. PROTECTED INFORMATION

Protection or disclosure of information submitted in response to this RFP is governed by Title 63G, Chapter 2, Government Records Access and Management Act, and the Utah Legislature Policies and Procedures for Handling Records Requests. A RESPONDER who desires to request protected status of any information submitted in the response must specifically identify the information that the RESPONDER desires to protect and the reasons that the information should be afforded protected status under the law. In making this request, the RESPONDER shall comply with the requirements of Utah Code Section 63G-2-305, Utah Code Section 63G-2-309, and all other applicable requirements of law. The COMMISSION's decision regarding the protected status of information shall be final and binding on the RESPONDER. Each RESPONDER shall indemnify, defend, and hold forever harmless the COMMISSION and the LEGISLATURE from any and all liability relating to the disclosure of information included in the RESPONDER's response to this RFP, even if the RESPONDER requested protected or other confidential status for the information. Attempts to designate an entire proposal, or large portions of a proposal, as protected will not be honored. Attempts to protect information relating to cost will also not be honored.

XIII. MODIFICATIONS TO, OR WITHDRAWAL OF, RESPONSE

A RESPONDER may modify or withdraw the RESPONDER's proposal, at any time before the closing date and time for submitting a proposal, by providing a written modification or a written statement withdrawing the proposal to the RFP contact. Modifications or letters of withdrawal received by the RFP contact after the closing date and time for submitting a proposal will be rejected as invalid. The version of a response to this RFP, as it exists at the closing date and time for submitting a proposal, will be binding on the RESPONDER.

XIV. COST OF RESPONDING TO RFP AND CONTRACT NEGOTIATIONS

1. All expenses relating to responding to this RFP, including preparing, submitting, and presenting a proposal, attending meetings in relation to this RFP, discussions, and all travel, dining, lodging, and communication expenses will be borne by the RESPONDER.

The COMMISSION assumes no liability for any costs incurred by a RESPONDER in responding to this RFP.

2. All expenses of the successful RESPONDER relating to conducting contract negotiations, including drafting, research, legal review, preparation, attending meetings, site visits, travel, dining, lodging, and communication expenses will be borne by the RESPONDER. The COMMISSION assumes no liability for any costs incurred by a RESPONDER relating to contract negotiations.
3. RESPONDER will not bill for any expense that was incurred prior to the time that the contract is signed by all parties.

XV. MISCELLANEOUS RESERVATION OF RIGHTS

The COMMISSION reserves the right not to award a contract to any of the RESPONDERS who respond to this RFP, to cancel this RFP at any time, or to issue a new RFP for the same or similar services.

XVI. RESTRICTIONS ON PUBLICITY

A successful RESPONDER may not, without the prior written approval of the COMMISSION, do any of the following:

1. Make any announcement regarding the award of the contract relating to this RFP.
2. Refer to the COMMISSION or the LEGISLATURE, or use any data, pictures, or other representation of the COMMISSION or the LEGISLATURE, in its advertising, marketing, or other promotional efforts.

XVII. GOVERNING LAW

This RFP is subject to the laws of the state of Utah, including Utah Code Title 63G, Chapter 6a, Utah Procurement Code.

ATTACHMENT A

STANDARD TERMS AND CONDITIONS

In addition to the terms and conditions included in the RFP, the following terms and conditions will be included in the agreement between the CONTRACTOR and the COMMISSION:

1. TERMINATION

1.1 This AGREEMENT may be terminated for cause by CONTRACTOR in advance of the specified termination date, upon the CONTRACTOR giving written notice of the COMMISSION's default. The COMMISSION will be given (30) thirty working days after notification to correct and cease the violations, after which, if the violations are not corrected or ceased, the contract may be terminated for cause.

1.2 The COMMISSION may terminate this AGREEMENT at any time when:

1.2.1 the FEDERALISM CURRICULUM is no longer needed, or there is no longer a need to MAINTAIN or UPDATE the FEDERALISM CURRICULUM; or

1.2.2 the COMMISSION is not satisfied with the RESPONDER or the FEDERALISM CURRICULUM provided or with the manner in which the RESPONDER MAINTAINS or UPDATES the FEDERALISM CURRICULUM.

1.3 The following terms will survive termination of the AGREEMENT: (to be specified before the AGREEMENT is signed).

2. DEFAULT AND REMEDIES

If CONTRACTOR breaches this AGREEMENT, the COMMISSION may do one or more of the following:

2.1 Exercise any remedy provided by law; or

2.2 Suspend CONTRACTOR from receiving future bid/proposal solicitations.

3. INDEPENDENT CONTRACTOR RELATIONSHIP

3.1 CONTRACTOR is an independent contractor and, except as expressly authorized by this AGREEMENT or by the COMMISSION, is not authorized, expressly or by implication, to bind the LEGISLATURE, the State of Utah, the COMMISSION, or any member, office, officer, department, agent, official, or employee of the

LEGISLATURE, the State of Utah, or the COMMISSION to any agreement, settlement, liability, or understanding or to perform any act as agent for the LEGISLATURE, the State of Utah, the COMMISSION, or any member, office, officer, department, agent, official, or employee of the LEGISLATURE, the State of Utah, or the COMMISSION.

3.2 Except as otherwise expressly provided in this AGREEMENT, CONTRACTOR is solely responsible to pay for all of CONTRACTOR's expenses and to pay each employee or subcontractor of CONTRACTOR all salary, wages, payments, expenses, fees, taxes, costs, insurance, and benefits of any kind relating to an employee or subcontractor of CONTRACTOR.

4. ASSIGNMENT PROHIBITED

CONTRACTOR may not assign this AGREEMENT or any duty or benefit relating to this AGREEMENT without the prior written permission of the COMMISSION.

5. GOVERNING LAW

This AGREEMENT shall be construed in accordance with, and governed by, the laws of the State of Utah, without reference to principles governing choice or conflict of laws. The parties will submit to the jurisdiction of the courts of the State of Utah any dispute arising out of this AGREEMENT or the breach of this AGREEMENT. Venue shall be in Salt Lake City, Utah, in the Third Judicial District Court for Salt Lake County.

6. EQUAL OPPORTUNITY

CONTRACTOR agrees to abide by the provisions of:

6.1 Titles VI and VII of the Civil Rights Act of 1964 (42 U.S.C. Sec. 2000e), which prohibit discrimination against any employee or applicant for employment or any applicant or recipient of services on the basis of race, religion, color, or national origin;

6.2 Executive Order 11246, as amended, which prohibits discrimination on the basis of sex;

6.3 45 C.F.R. 90, which prohibits discrimination on the basis of age;

6.4 Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990, as applicable, which prohibit discrimination on the basis of disabilities; and

6.5 Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the workplace.

7. INCORPORATION OF PROVISIONS OF RFP AND RESPONSE TO RFP

The provisions of the RFP, including all addenda to this RFP, and CONTRACTOR's response to this RFP, are hereby incorporated into this AGREEMENT by reference. If any conflict exists between the RFP, CONTRACTOR's response to this RFP, and this AGREEMENT, the terms and conditions of the following shall prevail in the following order of preference:

7.1 this AGREEMENT;

7.2 the RFP;

7.3 CONTRACTOR's response to the RFP.

8. LAWS AND REGULATIONS

CONTRACTOR and any and all hardware, software, supplies, services, equipment, and construction proposed or furnished under this AGREEMENT shall comply fully with all applicable federal and state laws and regulations.

9. PATENTS, COPYRIGHTS, ETC.

CONTRACTOR releases and shall protect, indemnify, and hold harmless the COMMISSION and the LEGISLATURE from liability of any kind or nature relating to CONTRACTOR's use or provision of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article, or appliance furnished or used in the performance of this AGREEMENT.

10. RECORDS ADMINISTRATION

CONTRACTOR shall maintain, or supervise the maintenance of, all records necessary to properly account for the payments made to CONTRACTOR for costs authorized by this AGREEMENT. CONTRACTOR shall retain these records for at least four years after the AGREEMENT terminates. CONTRACTOR agrees to allow state and federal auditors and legislative staff access to all the records relating to this AGREEMENT, for audit, for inspection, and for the monitoring of services. Such access will be during normal business hours, or by appointment.

11. CONFLICT OF INTEREST

CONTRACTOR certifies that it has not offered or given any gift or compensation prohibited by the laws of the State of Utah to any officer or employee of the COMMISSION or the LEGISLATURE to secure favorable treatment with respect to being awarded this contract.

12. DEBARMENT

CONTRACTOR certifies that neither CONTRACTOR nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this AGREEMENT by any governmental department or agency. CONTRACTOR will notify the COMMISSION within 30 days if debarred by any governmental entity during the term of this AGREEMENT.

13. INDEMNITY CLAUSE

CONTRACTOR releases, protects, defends, indemnifies, and holds harmless the COMMISSION and the LEGISLATURE from and against any damage, cost, or liability, including reasonable attorney fees for any and all injuries to persons or property, or claims for money damages, arising from acts or omissions of the CONTRACTOR and the CONTRACTOR's employees, subcontractors, and volunteers.

14. NON-APPROPRIATION OF FUNDS

Notwithstanding any other provision of this AGREEMENT, CONTRACTOR acknowledges that the COMMISSION cannot contract for the payment of funds not yet appropriated. The COMMISSION may, without penalty or liability of any kind, terminate this AGREEMENT by providing 30 days' written notice to CONTRACTOR that this AGREEMENT is terminated due to the non-appropriation of funds. If this AGREEMENT is terminated under this provision, the COMMISSION will pay all amounts due to CONTRACTOR through the date of termination and will not be liable for any future commitments, penalties, or damages of any kind.

15. FORCE MAJEURE

Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God, and/or war that is beyond that party's reasonable control. The COMMISSION may terminate this AGREEMENT after determining that such delay or default will prevent successful performance of the contract.

16. MERGER

This AGREEMENT constitutes the entire agreement between the parties with respect to

the subject matter contained in this AGREEMENT. There are no covenants, terms, or conditions, express or implied, written or unwritten, that govern the subject matter of this AGREEMENT, except as expressly described in this AGREEMENT. This AGREEMENT supersedes all prior agreements between the parties relating to all or part of the subject matter contained in this AGREEMENT.

17. MODIFICATION OF AGREEMENT

This AGREEMENT may be modified only in a written document signed by the COMMISSION chairs (or such other person certified as having the authority to bind the COMMISSION), on behalf of the COMMISSION, and CONTRACTOR's agent (or such other person certified as having the authority to bind CONTRACTOR), on behalf of CONTRACTOR.

18. AUTHORITY TO BIND

CONTRACTOR and the person who signs this AGREEMENT on behalf of CONTRACTOR represent that the person who signs this AGREEMENT has the authority to bind CONTRACTOR, and does, by signing this AGREEMENT, bind CONTRACTOR to the terms and conditions of this AGREEMENT.

19. PUBLIC INFORMATION

This AGREEMENT and documents relating to this AGREEMENT are subject to release in accordance with Utah Code, Title 63G, Chapter 2, Government Records Access and Management Act.

20. SEVERABILITY

A declaration by any court, or any other binding legal source, that any provision of this AGREEMENT is illegal and void does not affect the legality and enforceability of any other provision of this AGREEMENT, unless the provisions are mutually dependent.